

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

ANASCAPE, LTD

Plaintiff,

v.

MICROSOFT CORP. AND
NINTENDO OF AMERICA, INC.

Defendant.

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Civil Action No. 9:06-CV-158

JUDGE RON CLARK

ORDER DIRECTING PARTIES TO MEET AND CONFER

This case is set for a *Markman* hearing on August 22, 2007 at 10:00 a.m. The court expects the parties and their attorneys to limit the terms they ultimately submit for construction to those that might be unfamiliar to the jury or confusing to the jury, or which are unclear or ambiguous in light of the specification and patent history. *See United States Surgical Corp. v. Ethicon, Inc.*, 103 F.3d 1554, 1568 (Fed. Cir. 1997). “[A]lthough every word used in a claim has a meaning, not every word requires a construction.” *Orion IP, LLC v. Staples, Inc.*, 406 F.Supp.2d 717, 738 (E.D. Tex. 2005).

The parties are **ORDERED** to confer by July 13, 2007 and determine which additional claim terms can be agreed upon, and which are unclear or ambiguous terms or words of art, which are actually in dispute and require construction by the court. The parties shall notify the court of any new agreements on claim terms by **4:00 P.M. on August 1**.

So **ORDERED** and **SIGNED** this **31** day of **May, 2007**.



Ron Clark, United States District Judge